

**United States Bankruptcy Court  
Central District of California  
San Fernando Valley  
Judge Geraldine Mund, Presiding  
Courtroom 303 Calendar**

**Tuesday, August 01, 2017**

**Hearing Room 303**

10:00 AM

**1:10-10442 Victor Hugo Hernandez**

**Chapter 11**

**#1.00 Status Conference on Chapter 11 Case**

fr. 1/11/11, 3/29/11, 4/12/11, 6/14/11, 8/23/11, 10/25/11,  
1/17/12, 1/31/12, 2/28/12, 4/10/12, 6/12/12, 7/31/12,  
9/11/12, 11/20/12, 12/11/12, 2/26/13, 4/30/13, 6/18/13,  
8/27/13, 11/19/13, 1/14/14, 2/4/14, 3/11/14, 4/1/14, 6/24/14,  
9/16/14, 11/18/14, 12/16/14, 1/20/15, 2/24/15; 3/31/15; 5/12/15  
6/30/15; 8/18/15, 9/22/15, 2/9/16; 3/15/16; 4/26/16,  
6/7/16, 7/12/16, 8/16/16; 9/13/16, 10/11/16; 10/25/16; 11/15/16  
12/20/16; 4/18/17, 5/16/17; 6/27/17

Docket 1

**Tentative Ruling:**

Per the status report filed on 7/25/17, the Debtor made the final payment to his ex-spouse and her attorney - \$75,000 on 6/27. The total paid was \$175,000, which was \$5,000 more than anticipated due to accruing post-petition interest. There will be no reduction to the class 4 claimants and the Debtor will seek to reduce some of these claims through negotiating a discount for early payments.

There need to be various satisfactions of judgment signed and recorded and also Prudential requires and order of this court to resileve the QDRO request to that it will unblock the Debtor's 401k plan. Debtor anticipates filing a motion for final fees and to close the case.

Continue without appearance to 11/28/17 at 10:00 a.m.

prior tentative ruling (6/27/17)

Per the status report filed on 6/22/17, the Debtor paid another \$60,000 to the Class 4 claimants (Debtor's former spouse and her attorney) and they have now been paid a total of \$100,000 on the claim. Rather than the Debtor obtaining further proceeds from his 401k account, he is borrowing from his girlfriend in the approximate amount of \$150,000. The Debtor will not longer pursue a QDRO distribution. Approximately \$75,000 remains owing to Class 4 (this includes about \$5,000 of post-confirmation interest). There will be a reduction in the amount available to the unsecured class so that there will be

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\$10,000 rather than \$15,000.

Debtor anticipates delivering \$75,000 for Mr. Leichter-Maroko by 6/27 and will then receive a satisfaction of judgment. Mr. Leichter-Maroko and Debtor have agreed to a 30 day continuance of the status conference.

*Comment by the Court: my quick review of the confirmed Plan requires a total distribution of \$14,000 to the Unsecured Creditor Class. If does not seem to have the flexibility to reduce this to \$10,000. Please address this at the next status conference.*

**THE STATUS CONFERENCE IS CONTINUED WITHOUT  
APPEARANCE TO AUGUST 1, 2017 AT 10:00 A.M.**

prior tentative ruling (5/16/17)

Per the status report filed on 5/12/17, Prudential will approve the transfer of the 401K plan proceeds to Jinni O'Neill/Ariel Leichter-Maroko. This needs a signature from Debtor's counsel, Mr. Leichter-Maroko, and the Court. There will be a tax penalty to Ms. O'Neill and the Debtor is attempting to determine this amount. Mr. Leichter-Maroko is not comfortable with this as he thinks that there should be a way for this to be a hardship distribution and is concerned about the tax penalty to Ms. O'Neill.

Debtor requests a 30 day continuance. If Mr. Leichter-Maroko agrees, I will continue this hearing to 6/27/17 at 10:00 a.m. If no one appears (in person or by phone) on 5/16, I will assume that there is an agreement to the continuance.

prior tentative ruling (4/18/17)

Per the status report filed on 4/12/17, the Debtor is proceeding to comply with the Plan. There is some delay in paying the full claim in class 4 (Jinni O'Neill's attorney fees) in the Prudential wants a qualified domestic relations support order and this needs to be worked out.

O'Neill and Leichter-Maroko filed a late response. They oppose a QDRO distribution since that would cause them material harm and provide the Debtor with a huge windfall. By rolling the 401K plan into a retirement account in O'Neill's name, she would have to pay income taxes and penalties to withdraw and use the funds. The Debtor is the one who deposited the pre-

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**CONT...**

**Victor Hugo Hernandez**

**Chapter 11**

tax money and he is the one who should be liable for the takes and penalties to withdraw them in order to pay his domestic support obligation. This is in opposition to the representation by the Debtor in his 401k distribution motion (dkt. 285) that he would pay the taxes and penalties.

Beyond that, the payment is to be made directly to Leichter-Maroko's trust account since these are for attorney's fees and are directly payable to him.

Lastly, Prudential will distribute the 401k funds without a QDRO so long as they withhold 20% for taxes. This means that he could obtain an immediate distribution of \$116,000. He also represented that he could borrow \$30,000 from a friend (dkt. 285). And he has paid \$40,000. This would pay the class 4 claim in full.

From the Court: this is a post-confirmation status conference. How does Debtor intend to handle this? He is the one responsible for the taxes. I want this completed within 30 days.

Can the Plan be modified to Prudential's requirements?

<b>Party Information</b>
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**Debtor(s):**

Victor Hugo Hernandez

Represented By

David I Brownstein

Bonni S Mantovani

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10:00 AM

**1:10-26168    John Michael Licursi**

**Chapter 7**

Adv#: 1:15-01236      California Bank & Trust v. Licursi et al

**#2.00**    Motion of ZB, NA DBA California Bank and  
Trust for Summary Judgment or, Alternatively,  
Partial Summary Adjudication Regarding  
Nondischargeability of Debt Pursuant to  
11 USC Section 523

fr. 3/14/17(court's own motion at hrg 1/17/17),  
3/21/17, 3/28/17; 6/27/17

Docket      24

**Tentative Ruling:**

Off calendar. Order granting the motion as to liability entered 7/12/17.

<b>Party Information</b>
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**Debtor(s):**

John Michael Licursi

Represented By  
Andrew Goodman  
Yi S Kim  
James R Felton

**Defendant(s):**

Susan Annette Licursi

Represented By  
James R Felton  
Yi S Kim

John Michael Licursi

Represented By  
James R Felton  
Yi S Kim

**Joint Debtor(s):**

Susan Annette Licursi

Represented By  
Catherine Christiansen  
Andrew Goodman

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**CONT... John Michael Licursi**

**Chapter 7**

Yi S Kim  
James R Felton

**Movant(s):**

California Bank & Trust

Represented By  
Anthony J Napolitano

**Plaintiff(s):**

California Bank & Trust

Represented By  
Anthony J Napolitano

**Trustee(s):**

Diane Weil (TR)

Pro Se

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10:00 AM

**1:10-26168 John Michael Licursi**

**Chapter 7**

Adv#: 1:15-01236 California Bank & Trust v. Licursi et al

**#3.00** Status Conference re: Complaint

fr. 1/6/16; 1/12/16, 3/1/16, 6/7/16,  
7/12/16, 10/11/16, 1/17/17; 3/21/17,  
3/28/17; 6/27/17

Docket 1

**Tentative Ruling:**

Summary judgment was granted to Plaintiff as to (1) liability of Susan and John Licursi under §§523(a)(2)(A), 523(a)(2)(B), and 523(a)(6). It was also granted as to John Licursi under §523(a)(4). The measure of damages is yet to be resolved.

No status report has been received as of 7/30. How do the parties intend to proceed?

<b>Party Information</b>
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**Debtor(s):**

John Michael Licursi

Represented By  
Andrew Goodman  
Yi S Kim  
James R Felton

**Defendant(s):**

Susan Annette Licursi

Represented By  
James R Felton  
Yi S Kim

John Michael Licursi

Represented By  
James R Felton  
Yi S Kim

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**CONT... John Michael Licursi**

**Chapter 7**

**Joint Debtor(s):**

Susan Annette Licursi

Represented By  
Catherine Christiansen  
Andrew Goodman  
Yi S Kim  
James R Felton

**Plaintiff(s):**

California Bank & Trust

Represented By  
Anthony J Napolitano

**Trustee(s):**

Diane C Weil (TR)

Pro Se

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**1:11-22424    Ronald Alvin Neff**

**Chapter 7**

**#4.00      Motion for Ruling on Objection of Douglas DeNoce  
to the Homestead of Debtor**

fr. 3/21/17; 5/2/17; 6/27/17

Docket      319

**Tentative Ruling:**

According to the DeNoce status report filed on 7/27/17, written discovery is completed. The only remaining discover is to have a "Mental Examination" of Dr. Neff. There is a motion for this set for 9/19.

I will enter an order terminating this motion (dkt. 319). I will rule that all written discovery has been completed and that the only remaining discovery motion is that filed as docket #357. No further discovery is to be allowed except as to experts (see tentative ruling on cal. #5).

prior tentative ruling (5/2/17)

This was filed before all of the events about the SSA records. It needs to wait until those are produced and DeNoce has a reasonable time to review. Then it needs to be set for hearing.

On April 14 Mr. DeNoce filed an opposition to Debtor's motion to terminate discovery (dkt. 343), which is meant to be the opposition to this motion. As noted, it will be delayed until DeNoce has a reasonable time to review the records.

<b>Party Information</b>
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**Debtor(s):**

Ronald Alvin Neff

Represented By  
Michael D Kwasigroch

**Movant(s):**

Ronald Alvin Neff

Represented By  
Michael D Kwasigroch

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**CONT... Ronald Alvin Neff**

**Chapter 7**

**Trustee(s):**

David Keith Gottlieb (TR)

Represented By  
M Douglas Flahaut

**United States Bankruptcy Court  
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10:00 AM

**1:11-22424 Ronald Alvin Neff**

**Chapter 7**

**#5.00** Status conference after remand and vacature of order regarding claim of exemption by Ninth Circuit Bankruptcy Appellate Panel

fr. 5/14/15; 7/23/15; 8/20/15; 10/22/15; 1/14/16; 2/10/16; 2/17/16; 4/13/16  
8/10/16; 8/30/16; 10/25/16, 12/20/16, 2/7/17, 2/21/17; 3/1/17; 5/2/17; 6/27/17

Docket 87

**Tentative Ruling:**

I have two matters on calendar, but I intend to rule on cal. #4 and continue only under this status conference, which is really a continued hearing on the original objection to claim (dkt. 87)

By way of procedural background, on 8/24/12 DeNoce filed an objection to the Debtor's claim of exemption (dkt. 87). Judge Kaufman sustained the objection to the \$175,000 disability claim, but allowed an exemption of \$75,000. Both Neff and DeNoce appealed. The Bankruptcy Appellate Panel sustained the ruling as to the \$75,000 amount, but vacated and remanded as to the \$175,000 disability claim based on insufficient evidence (dkt. 208). The appeal to the Court of Appeals was dismissed (dkt. 211).

In the meantime, DeNoce filed four adversary complaints against Neff, but all have been closed.

On 4/17/15, Judge Kaufman entered an order setting a status conference on the remand (dkt. 213). Various motions and status conferences were held and this case was transferred to me on 8/9/16. Status conferences and motions continued and on 2/21/17 Neff filed a motion for final ruling on the objection (dkt. 319). That is on today's calendar as cal. #4. Basically it is a motion to terminate discovery and set this for trial.

According to the DeNoce status report filed on 7/27/17, written discovery is completed. The only remaining discovery is to have a "Mental Examination" of Dr. Neff. There is a motion for this set for 9/19.

The motion for examination is scheduled by Mr. DeNoce for some 45 days after the motion was filed. This court has three motion calendars available before that one: August 22, August 29, and September 12. Unless

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**CONT...**

**Ronald Alvin Neff**

**Chapter 7**

there is a request by debtor's counsel to keep it on September 19, the Court will advance the hearing to either August 22 or August 29. I am trying to bring this matter to trial as soon as possible.

Beyond this motion for an examination, no further discovery will be allowed except as to expert witnesses, should either side intend to present such evidence at trial. Let's get that set at this time.

prior tentative ruling (6/27/17)

Nothing new received as of 6/25. Did Mr. Denoce receive the records?

prior tentative ruling (3/1/17)

At the 2/7/17 status conference, Mr. DeNoce appeared by phone and said that he had received a letter from the Social Security Disability Department that they require the Debtor to sign the request for records. Mr. DeNoce was instructed (and agreed) to send a copy of that letter to Mr. Kwasigroch and file it with the court with whatever motion he wished. He was also instructed and agreed to file an undated status report on this matter, which concerns an objection to the homestead exemption.

Mr. DeNoce said that he had problems in the past when he mailed things to the court in that they were not docketed. He was bedridden at the time of the 2/7 hearing and will be having surgery in March.

On 5/16, DeNoce filed a status report that he will be ready for trial after the SSA Disability records are obtained and he has filed a motion for an independent medical evaluation. He also filed his declaration concerning his attempts to obtain the disability records. The balance of the declaration deals with his relations with Kwasigroch. At this time, the Court is not particularly interested in the past relations of these parties and has only scanned that material enough to be aware of the subject matter.

Getting down to the real question-at-hand, obtaining the records, unlike the representations made on the phone, the only correspondence is the the California Department of Social Services, which no longer has the records. They informed DeNoce that these are being held by the Social Security Administration, probably at the Thousand Oaks field office. The operative paragraph from Todd Eberle, Senior Staff Counsel at the California DSS,

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**Ronald Alvin Neff**

**Chapter 7**

states: "In the meantime, if you contact the Thousand Oaks SSA field office, I would suggest that you have Mr. Neff sign the SSA's Consent for Release of Information (Form SSA-3288,[link given]). You could try and use the subpoena you provided Mr. Reilley, but from my experience SSA does not consider California subpoenas to be of a court of competent jurisdiction. A signed 3288 makes the process simple, although I understand it can often be problematic to convince an uncooperative party to sign the form." [Emphasis added]

(1) This is not as DeNoce represented at the last hearing since this is not a communication from the SSA, which is a federal agency. It is from the DDS, which is a state agency.

(2) The subpoena in question was not from a California court, but from a Federal Bankruptcy Court, so the comment by Mr. Eberle has no relevance.

(3) There is no showing that DeNoce ever tried to obtain this by subpoena on the SSA.

If Neff wishes to agree to sign the form 3288, that would move this case along. However, unless the SSA itself refuses to provide the information through the subpoena process, I am not going to order that he sign it.

At the request of DeNoce, the Court will issue a new subpoena as to the SSA. I will continue this status conference to let him serve that and receive a response. When is DeNoce having his surgery.

prior tentative ruling (2/7/17)

Nothing further received as of 2/5/17. This status conference was on the bankruptcy case, not the adversary proceedings. It is now off calendar.

prior tentative ruling (12/20/16)

Off calendar. The memorandum and order were entered on 12/15/16.

A status conference on this adversary case will be held on Feb. 7, 2017 at 10:00 a.m. The Court will give notice.

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**CONT... Ronald Alvin Neff**

**Chapter 7**

**Debtor(s):**

Ronald Alvin Neff

Represented By  
Michael D Kwasigroch

**Trustee(s):**

David Keith Gottlieb (TR)

Represented By  
M Douglas Flahaut  
Aram Ordubegian

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**1:16-11387 Real Estate Short Sales Inc**

**Chapter 11**

**#6.00** U.S. Trustee's Motion to dismiss or convert Case  
with an Order Directing Payment of Quarterly Fees  
and for Judgment Thereon

fr. 1/17/17, 2/21/17; 5/30/17, 7/11/17

Docket 93

**Tentative Ruling:**

At the hearing on 7/11, the Court ordered Ms. Cueva (and her advisor if she hires one) to meet with the analyst at the OUST to begin the reconciliation process. The Court informed the parties that if this is not commenced, the case would be converted. Mr. Burton is to file a status report on this and also as to the sale of the property. There has been no motion to employ the broker. There is a signed contract to purchase, but the sale will not finalize until November.

Since the hearing, Mr. Huynh filed a supplement to his joinder. He asserts that although the Debtor filed "catch-up" reports, this is a violation of the requirement to timely filed complete and accurate reports and should not excuse the original non-compliance. He charts how of the 14 MORs that came due, only one was timely, three were never filed, and the other ten were late. Further, many of those filed were incomplete or inaccurate. He seeks conversion.

Mr. Cueva filed a declaration on 7/27. She asserts that she paid an accountant chosen by her prior counsel (paid \$600), but the accountant did not do the work or return the money. Then she did the work herself. Meanwhile, her husband was diagnosed with an aggressive form of cancer and 80% of her time is spent caring for him. Since the last hearing, her present counsel has referred her to Yorum Shakib, a CPA, to correct the MORs. This has been done and she believes that they are now all corrected.

As to MR. Huynh, his asserted claim is set for trial in a civil lawsuit against the Debtor, its principal, and shareholders. Only then will it be known if he is owed money.

Mr. Cueva also says that she has applied with SFS for a loan modification, which they have approved and which is being finalized. This will

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**CONT...      Real Estate Short Sales Inc**

**Chapter 11**

continue paying for and preserving the property until there is a further increase in value and in case the current buyer cancels excrow.

Proposed ruling

The Court wants to know from the OUST whether the reports are now accurate.

From Mr. Burton - does the accountant need to be employed? Will the accountant continue to do the MORs? Does the Court need to approve the loan modification? Is the broker going to be employed? Is the sale going to have a motion to approve it?

prior tentative ruling (7/11/17)

John Huynh filed a joinder in this motion, seeking conversion rather than dismissal. He asserts an unsecured claim of \$240,000.

prior tentative ruling (1/17/17)

Debtor owes partial fees for third quarter 2016. No response as to 1/11/17.

<b>Party Information</b>
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**Debtor(s):**

Real Estate Short Sales Inc

Represented By  
Giovanni Orantes

**Movant(s):**

United States Trustee (SV)

Represented By  
Katherine Bunker  
S Margaux Ross

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**1:16-11387 Real Estate Short Sales Inc**

**Chapter 11**

**#7.00 Status Conference**

fr. 7/28/16 (note: previously Judge Tighe's case),  
8/2/16; 8/30/16; 12/20/16, 1/17/17, 2/21/17; 5/30/17,  
7/11/17

Docket 1

**Tentative Ruling:**

The Huynh complaint was dismissed by stipulation. John Huynh has filed a joinder in the UST motion to dismiss, seeking conversion. Apparently there is a complaint by Mr. Huynh in Superior Court. Is it just against Ms. Cueva and the shareholders or also against the Debtor? If against the Debtor, has relief from stay been granted (there is no motion or order on the docket)? If it is not against the Debtor, how does Mr. Huynh have and standing or claim in this case? [He filed a \$240,000 claim on 5/2/17. This is based on checks made payable to Debtor in Spring 2013. Will this lead to piecemeal litigation?]

prior tentative ruling (5/30/17)

Counsel has now been employed. On 5/16/17 John Huynh filed a complaint against the Debtor under section 523(a) having to do with an attempted purchase of the real property.

The status conference on that adversary is set for 7/12/17. This is an incorrect date (the error is the Court's) and it will be heard on 7/11/17 at 10:00 a.m. However, please be aware that this adversary - in its current form - cannot go forward as §523(a) only applies to individuals, not corporations. The proper way to proceed against a corporation is to file a proof of claim.

prior tentative ruling (1/17/17)

As of 1/11/17 there has been no application to employ counsel. No disclosure statement has been filed. Unless there is proof at the hearing on 1/17 that counsel has been employed and is ready to file a disclosure statement, this case will be dismissed.

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**Chapter 11**

prior tentative ruling (12/20/16)

On Dec. 6 the Court granted Mr. Orantes motion to withdraw as counsel. Debtor's principal is aware that this debtor must be respresented by counsel. The Court allowed and extension until 1/15 to file a disclosure statement and plan. Continue this status conference without appearance to January 17, 2017 at 10:00 a.m. at which time the Court will ascertain that a disclosure statement and plan have been filed and that counsel has been employed.

prior tentative ruling (8/30/16)

Motion to continue denied. See cal. #16.

Does Mr. Orantes seek to be employed? He has not filed his clarifying declaration as to his scope of work, etc. If this is not done by 8/29, I will deny the motion to be employed.

New schedules need to be filed - at no charge to the Debtor since this is an attorney error. Every creditor is listed as "contingent, unliquidated, disputed." While some claims might be disputed (ie. Dapeer), it is liquidated and not contingent. You even marked the FTB and IRS claims (each \$0) as contingent, unliquidated, and disputed.

Amended schedules B, D, and E/F are to be filed no later than 9/9/16.

Definitions (from Ballentine's Law Dictionary, 3d edition):

contingent claim - A liability which depends upon some future event which may or may not happen, and which, therefore, makes it wholly uncertain whether ultimately there ever will be a liability.

unliquidated claim - A claim in respect to which the exact amount which the claimant is entitled to recover has not been ascertained.

disputed claim - ... a dispute as to the amount of the sum actually due, as to whether anything is due, or as to the construction of the terms of the contract between the parties, which is bona fide, honest, and based upon a reasonably tenable or plausible ground.

Thus, the amount in question of most or all of these creditors is liquidated and

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**Chapter 11**

- unless some action prior to collection is required - they are not contingent. Some may be disputed, but this requires a good-faith determination on your part.

Mr. Orantes: If this is your normal method of completing schedules, I am putting you on warning that you are violating Rule 9011. This practice is to immediately stop. I will check some of the cases that you file in the next few months and if I see this practice is continuing, I will notify the judges on those cases so that they can bring Rule 9011 motions against you and/or seek a disciplinary hearing under our court disciplinary rule.

As to the next steps in this case, the status report suggest a claims bar date of 9/9/16, objections to be filed by 10/14/16, avoidance actions by 10/2/16, and a proposed plan and disclosure statement by 10/28/16. I have no problem with this schedule, but amended schedules are to be filed (as set forth above) by 9/2. Since all that this will do is remove the necessity for some creditors to file a claim - FRBP 3003(c)(2), the proposed claims bar date will stand. However, Mr. Orantes is to serve the amended schedules on all creditors.

prior tentative ruling (8/2/16)

The Debtor seeks to employ the Orantes Law Firm. Two things about the application need clarification:

(1) the retainer agreement refers to the law firm being "co-counsel" and also "general bankruptcy counsel" fo the Debtor. There are some "limited scope" provisions. Please clarify what work the Law firm will be doing and what the DIP will be doing.

(2) similarly, the application states that the firm took "a modest retainer only to assist the Debtor to proposed a plan to reorganize its debt." (Dkt. 29, p. 4:28-5:1). I do not understand how this fits into the limited scope.

<b>Party Information</b>
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**Debtor(s):**

Real Estate Short Sales Inc

Represented By  
Giovanni Orantes